IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 24157 of 2002

Between:

1 E. Venkatesulu S/o. E.Narayanappa
Anantapur District.
2 D. Anand S/o. D. Lazeres
Anantapur District.

..... PETITIONERS

AND

1 The Superintendent of Prohibition and Excise
Anantapur District, Anantapur - 515 001.
2 The Deputy Commissioner of Prohibition & Excise
ANANTAPUR - 515 001.
3 The Commissioner of Prohibition & Excise,
A.P., M.J.Road, Hyderabad - 500 001.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or Direction more particularly one in the nature of Writ of Certiorari calling for the records on the file of the A.P.Administrative Tribunal in O.A.No. 3090 of 1994 apart from calling for the entire records from the respondents 1 to 3 herein and quash the order dated. 14-11-2002 of the A.P.Administrative Tribunal in O.A.No.

3090 of 1994 and consequently allow the O.A. filed by the Petitioners as prayed for therein.

Counsel for the Petitioner:MR.T.P.ACHARYA

Counsel for the Respondent Nos.1 to 3: GP FOR PROHIBITION & EXCISE.

The Court made the following :

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O R D E R: (PER GB.J.,)

1) This writ petition is filed assailing the order passed on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.No.3090 of 1994, dated 14.11.2002.

2) The petitioners were initially appointed as Excise Constables in Anantapur District basing on the recruitment conducted at District level. Petitioner No.1 belongs to BC-B category and petitioner No.2 belongs to BC-C category. It is the case of the Government that the petitioners were appointed to the posts, which are meant for other candidates. While the 1st petitioner was appointed to OC post, being BC-B and he secured only 48 marks. While the O.C. candidate secured 60.9 marks. The 2nd petitioner being BC-C candidate who secured 48.5 marks was appointed to a vacancy reserved for B.C-B candidate. In the present case, the vacancy of B.C-D, which has to be allotted to B.C-A candidate, who secured 60.9 marks was not given appointment. Under those circumstances, the authorities found that the petitioners herein were appointed to wrong rosters. So far, notices were issued and their services were terminated. Aggrieved by the same, the petitioners herein filed O.A.No.3090 of 1994 before the Tribunal. After considering the matter, the Tribunal dismissed the O.A. Aggrieved by the same, this writ petition is filed.

3) While admitting the writ petition, this Court passed interim orders directing both the parties to maintain status quo in all respects until further orders. Therefore, the matter has come up for final hearing after a long lapse of time. The only ground, on which, the termination was sought to be affected is that the petitioners were not appointed to the respective rosters and therefore, they are not entitled for appointment. In view of the long lapse of time, we are not inclined to consider the matter on merits. Suffice to say that since the recruitments have taken place subsequent to 1993, any adjustment in respect of rosters could be done by the authorities without resorting to filling up the vacancies in the respective BC-D and BC-A categories in future recruitments. The petitioners shall be continued in the said posts, without resorting to termination. The petitioners are entitled for the benefits as if they have not been terminated from service.

4) With the above direction, the writ petition is disposed of. No order as to costs.

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G.BIKSHAPATHY.J.,

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P.S.NARAYANA.J.,

Dt.11.04.2005

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To

1. The Superintendent of Prohibition & Excise, Anantapur District, Anantapur-515 001
2. The Deputy Commissioner of Prohibition & Excise, Anantapur-515 001
3. The Commissioner of Prohibition & Excise, A.P.M.J.Road, Hyderabad 500 001.
4. 2 C.Cs to the G.P. for Prohibition & Excise, High Court of A.P., Hyderabad. (OUT)
5. 2 C.D.Copies.